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7  
8 Attorneys for Defendant  
9 DOE 1  
10

11 UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13

14 HARMEET K. DHILLON, an individual,  
15  
16 Plaintiff,  
17  
18 vs.  
19  
20 DOE 1, an unknown individual, and DOES 2  
21 through 10,  
22  
23 Defendants.  
24  
25  
26  
27  
28

Case No. 13-cv-01465 SI

DECLARATION OF RICK A. CIGEL IN  
SUPPORT OF DEFENDANT DOE 1'S MOTION  
FOR JUDGMENT ON THE PLEADINGS  
PURSUANT TO FRCP 12(C) OR FOR  
SUMMARY JUDGMENT

Date: February 28, 2014  
Time: 9:00 a.m.  
Courtroom 10, 19<sup>th</sup> Floor  
Hon. Susan Illston

**DECLARATION OF RICK A. CIGEL**

I, Rick A. Cigel, declare and state as follows:

1. I am an attorney at law duly licensed to practice before all the courts in the State of California. I have personal knowledge of the matters set forth below, and if called upon to do so, I could and would testify competently thereto.

2. I am the principal at The Cigel Law Group, P.C., counsel for Defendant Doe 1. Doe 1 is an unnamed defendant and files this motion under his or her fictitious name in order to preserve anonymity. No reference to Doe 1 in this declaration or in the opposition brief is meant to convey any information about the gender of Doe 1 or the number of individuals involved.

3. The Munger Games is a wholly noncommercial blog that posts articles and commentary about California politics on its website at [www.mungergames.net](http://www.mungergames.net). Its articles and commentary are not only viewed directly by internet viewers, but are either reposted or commented on by multiple other websites that deal exclusively with politics and current events that affect California.

4. The Munger Games website has absolutely no commercial elements. It does not sell anything. It does not charge anything to view any part of the site. The website does not request payment or contributions for anything, and has no functionality that permits payment of money.

5. The principal focus of articles published on The Munger Games is Charles Munger, Jr. The website also publishes articles on other individuals and subjects relating to California politics.

6. The website [www.votesmart.org](http://www.votesmart.org) contains reports on politician's campaign finances. On September 20, 2013, I conducted a search of campaign finances for plaintiff Harmeet K. Dhillon ("Dhillon"). Attached hereto as Exhibit "A" is a true and correct copy of the results of that search. As shown on the second page, her top contributor was Charles Thomas Munger, Jr., who donated \$7,500.00.

1           7.       Attached hereto as Exhibit “B” is a true and correct copy of the inaugural article  
2 written about Charles Munger, Jr. on “The Munger Games”. The article explains the purpose of  
3 the website as follows:

4           “Welcome to The Munger Games, the purpose of which is to inform, educat[e] and  
5 entertain on the subject of the one-man maelstrom of money intent on re-making  
6 California Republicanism in his bow-tied image.

7           Munger burst into California Republican politics a few short years ago, and has left  
8 a trail of political debris in his wake:

9           -Prop. 14, which created the top-two primary system that pits Republicans against  
10 Republicans in the general election.

11           -Prop. 20, which gave us the Citizens Redistricting Commission that was expertly  
12 gamed by the Democrats to the detriment of Republicans.

13           -A divisive effort to reduce the CRP platform to mush.

14           -Enormous expenditures to defeat the already dwindling number of GOP Assembly  
15 incumbents.

16           That’s just the top-line scan of the damage Munger has and will inflict. There are  
17 weirder tales still to tell.

18           Who is Charles Munger, Jr.? What makes him tick? What has he done? What will  
19 he do?”

20           8.       The Munger Games website has a graphic above every article that will not print  
21 through a normal computer print command. The graphic says “THE MUNGER GAMES” in  
22 large and bold type, and has the motto “WASTING HIS PATRIMONY” in quotation marks  
23 immediately below. To the left of the text is an image of a bow tie made out of a hundred dollar  
24 bill, which is a satirical reference to the fact that Munger frequently wears bow ties. In order to  
25 show the graphic, a “screen shot” of the website was printed and is attached hereto as Exhibit  
26 “C”.

1           9.       Attached hereto as Exhibit “D” is a true and correct copy of the February 12, 2013  
2 blog post from The Munger Games, containing the article entitled “Meet Harmeet”. On the  
3 website, the article has the same logo shown in Exhibit “C”. The original posting of the article  
4 contained the headshot photograph of Dhillon directly below the headline “Meet Harmeet”. The  
5 photograph has been removed. In place of the photograph, the article now has the words  
6 “Harmeet Dhillon” and “*Harmeet Dhillon*”.

7           10.      In the “Meet Harmeet” article, the anonymous author addresses in detail the social  
8 and political positions that Dhillon supported through her ACLU membership. The article goes on  
9 to observe that Munger was supporting Dhillon as “a leader and spokesperson for the California  
10 Republican Party” and stressed that Dhillon’s liberal values were not consistent with the values of  
11 the Republican Party. As the author wrote:

12           “These are the values to which Harmeet Dhillon pledged her commitment in 2002. And  
13 this is the individual Charles Munger, Jr. wants to elect as a leader and spokesperson for  
14 the California Republican Party.

15           The question California Republican activists, leaders and elected officials need to ask  
16 themselves is whether these are the values of Republican Party? How much will we  
17 compromise ourselves by following the prescriptions of Dr. Munger in the vain hope of  
18 ‘broadening our appeal?’”

19           11.      Attached hereto as Exhibit “E” is a true and correct copy of the subpoena dated  
20 April 11, 2013, issued from the Northern District of California and served on New Dream  
21 Network, LLC, the webhost of The Munger Games.

22           12.      Dhillon filed and lost an administrative motion to compel compliance with that  
23 subpoena. This Court denied the motion because it had no jurisdiction to enforce a subpoena  
24 directed against a company outside the Northern District. In response to the Court’s ruling,  
25 Dhillon had a subpoena issued on July 22, 2013 in the Central District of California to New  
26 Dream Network, LLC. The subpoena attached the Amended Order Granting Plaintiff’s *Ex Parte*  
27 Application for Leave to Take Limited Discovery Prior To A Rule 26(f) Conference from the  
28

1 Northern District of California dated April 9, 2013 (Doc. 8). A true and correct copy of the  
2 subpoena is attached hereto as Exhibit “F”.

3 13. On behalf of Doe 1, I filed a motion in the Central District of California to quash  
4 the subpoena issued to New Dream Network, LLC. Dhillon filed an opposition brief claiming  
5 that she had “specifically limited” the information she was seeking so that she could “serve  
6 process on Defendants.” In response to that brief, I filed a Reply Brief in support of Doe 1’s  
7 motion. Attached hereto as Exhibit “G” is a true and correct copy of the brief. On page 3, lines 15  
8 through 19, I offered to accept service of the summons and complaint on behalf of Doe 1. I was  
9 very surprised that Dhillon’s counsel did not quickly accept that offer. Until this Court entered its  
10 November 4, 2013 order instructing Doe 1’s counsel to accept service (Dkt. 42), no one from  
11 Dhillon’s firm contacted me at all to discuss my offer or to formalize the service of the summons  
12 and complaint. Once the Court made its order, I was contacted by Dhillon’s counsel and  
13 immediately agreed to accept service. Dhillon’s counsel agreed to withdraw the subpoena in light  
14 of the Court’s order.

15 14. Attached hereto as Exhibit “H” is a true and correct copy of the first page of the  
16 results of web search on the website [www.bing.com/images](http://www.bing.com/images). I conducted this web search on  
17 January 14, 2014 and entered the search terms “Harmeet Dhillon photos.”

18 15. Attached hereto as Exhibit “I” are true and correct copies of pages from Dhillon’s  
19 law firm website, available at [www.dhillonsmith.com/harmeet-dhillon](http://www.dhillonsmith.com/harmeet-dhillon). I obtained these images  
20 from the firm’s website on January 14, 2014. The pages consist of the following:

21 1) a three-page resume of Dhillon, which stresses that her litigation practice in  
22 New York, London and the San Francisco Bay Area has had a “particular emphasis” on  
23 issues such as “intellectual property (including trademark litigation and internet torts)” and  
24 “First Amendment litigation (including defamation, trade libel, right of publicity, and anti-  
25 SLAPP motions.” In the “Areas of Expertise” section, she lists “Intellectual Property  
26 (Trademark, Copyright and Trade Secrets)” and “First Amendment (Right of Publicity,  
27 Slander, Defamation, Trade Libel, and anti-SLAPP). Dhillon was a law clerk for the  
28

1 United States Court of Appeals for the Fourth Circuit and for the Constitutional Torts  
2 Section of the United States Department of Justice, Civil Division;

3 2) a one-page discussion of the “Intellectual Property Registration, Licensing and  
4 Litigation” practice area of her firm. This discussion touts their great experience in  
5 copyright matters; and

6 3) a one-page discussion of the “Defamation/Free Speech” practice area of her  
7 firm. In that discussion, Dhillon’s firm boasts that they are “zealous free speech  
8 advocates.” As her firm brags, “Dhillon & Smith’s attorneys have defended the  
9 Constitutional right to free speech for decades. We have represented clients-including  
10 volunteer organizations-besieged by meritless attempts by public and private individuals  
11 and entities to quell their speech. In 2010 our firm won a landmark anti-SLAPP (“strategic  
12 lawsuit against public participation”) on behalf of the elected leadership of a 1 million  
13 member plus political party unit.”

14 16. I am a 1982 graduate of the Northwestern University School of Law. My billing  
15 rate for this matter is \$625 per hour. That rate is competitive with other Los Angeles litigation  
16 attorneys with my background and experience. I had my two senior associates, Lori Schroeder  
17 and Michael Kadish, assist me on this case. Ms. Schroeder is a 1990 graduate of UCLA School of  
18 Law and Mr. Kadish is a 1992 graduate of the Southwestern University School of Law. The  
19 billing rate for Ms. Schroeder and Mr. Kadish on this matter is \$550 per hour.

20 17. I have reviewed my firm’s billing records for this matter. The billing records  
21 include all time spent on the investigation and research of all the issues, the motion and pleading  
22 work in the Northern District, and the motion and pleading work in the Central District of  
23 California. Through December 2013, I spent a total of 80.20 hours on the case, for a total of  
24 \$50,125.00. Ms. Schroeder spent a total of 133.40 hours and Mr. Kadish spent 9.4 hours, for a  
25 combined total of \$78,540.00.



# EXHIBITS



Exhibit “A”

## Project Vote Smart (<http://votesmart.org/>)

[Return to search results \(/search?q=harmeet+dhillon\)](/search?q=harmeet+dhillon)

### Harmeet K. Dhillon

#### Harmeet Dhillon's Campaign Finances



[//votesmart.org/canphoto/104348\\_lg.jpg](http://votesmart.org/canphoto/104348_lg.jpg)

**Full Name:** Harmeet K. Dhillon

**Gender:** Female

**Birth Date:** 10/06/1968

**Birth Place:** Punjab, India

[See Full Biographical and Contact Information \(/candidate/biography/104348/harmeet-dhillon\)](/candidate/biography/104348/harmeet-dhillon)

#### Summary

In-State	\$31,708.00
Out-Of-State	\$11,151.00
Unknown State	\$1,067.00
Party Committee	\$0.00
Leadership Committee	\$0.00
Personal Funds	\$4,571.00
Individual Contributions	\$33,403.00
Unitemized	\$577.00
Public Funding	\$0.00
Non-Contribution	\$390.00
Institutions and Companies	\$4,986.00
Total Contributions	87
<b>Total</b>	<b>\$43,926.00</b>

Cycle: 2012

Data provided by FollowTheMoney.org (<http://www.followthemoney.org/database/StateGlance>)

/candidate.phtml?c=147478)

## Top Sectors

Uncoded	\$22,304.00
Government Agencies/Education/Other	\$7,500.00
Lawyers & Lobbyists	\$4,701.00
Candidate Contributions	\$4,571.00
Finance, Insurance & Real Estate	\$2,500.00
Ideology/Single Issue	\$1,184.00
Unitemized Contributions	\$577.00
Non-Contributions	\$390.00
Communications & Electronics	\$200.00

## Top Industries

Uncoded	\$22,304.00
Education	\$7,500.00
Lawyers & Lobbyists	\$4,701.00
Candidate Self-finance	\$4,571.00
Insurance	\$1,250.00
Real Estate	\$1,250.00
Conservative Policy Organization	\$1,184.00
Unitemized Contributions	\$577.00
Non-Contribution	\$390.00
Computer Equipment & Services	\$200.00

One Common  
Ground,  
Philipsburg,  
MT 59858  
Hotline:

## Top Contributors

MUNGER JR, CHARLES THOMAS	\$7,500.00
DHILLON, HARMEET	\$4,571.00
DHILLON, PARMINDER	\$3,900.00
PETER, LAURA	\$2,500.00
SINGH, TEJINDER	\$2,000.00
THANGARAJ, PREETHA	\$1,250.00
AHLUWALIA, SATWANT	\$1,000.00
INVENTUS LAW INC	\$1,000.00
MOORE, CHARLES	\$1,000.00
DANG, KULMEET SINGH	\$1,000.00
LINCOLN CLUB OF NORTHERN CALIFORNIA	\$1,000.00
IRON SYSTEMS INC	\$1,000.00
SHERGILL LAW FIRM	\$501.00
LAW OFFICES OF BHALLA & CHO LLC	\$500.00
TOBIASON, JENNIFER	\$500.00
SHOQUIST, DEBORA	\$500.00
SINGH, MEETPAUL	\$500.00
BOWEN, WILLIAM	\$500.00
HUGHES, CHRISTINE	\$500.00
TEREE, DANIEL	\$500.00
SALUJA MEDICAL ASSOC PA	\$500.00
TOGNAZZINI, DONN	\$500.00
ABDULMASSIH, TONY	\$500.00

888-Vote-Smart (888-868-3762)  
All content © 1992 - 2013 Project Vote Smart unless  
otherwise attributed (/copyright) - Privacy Policy  
(/about/privacy) - Legislative demographic data  
provided by Aristotle International, Inc.  
(http://www.aristotle.com/) Mobile Version  
(?flavour=mobile&utm\_source=votesmart&  
utm\_medium=mobile-  
link&utm\_campaign=flavourswitch)

DHILLON, HARPAL	\$500.00
BHASIN, MANMEET	\$300.00
GHARAKHANIAN, ANDRE	\$300.00
BHALLA, AMARDEEP	\$250.00
ROSSETTI, LISA	\$250.00
BHATT, MANOJ	\$250.00
GAUBA, POOJA	\$250.00
BUHLER, LUIS PALTENGHE	\$250.00
MUNOZ, CALISE	\$250.00
BALI, TANUJA	\$250.00
SANDHU, SAWTANTER	\$250.00
ADVANI, MUKESH	\$250.00
SINGH, HARJINDER	\$250.00
BAJWA, PRABHJOT	\$250.00
DHILLON, SADEV	\$250.00
SHARMA, DEVENDRA	\$250.00
CABERWAL, DALJIT S	\$250.00
MUNDY, DARSHAN S	\$250.00
SAWHNEY, GURJIT	\$200.00
REKHI, KANWAL	\$200.00
GOEL, RASMI	\$200.00
WHALEY, SHANE	\$200.00
CAGNON, CHARLES	\$200.00
BHASIN, BALJEET	\$200.00
CALIFORNIA TRAILBLAZERS	\$184.00
BEDI, SUNDEEP	\$150.00
OHARA, RITA	\$150.00
DHILLON, MANPREET	\$150.00
STORELLA, JOHN	\$150.00
AASRA SOLUTIONS & TECHNOLOGIES	\$101.00
MALHI, MEETA	\$101.00
MEGHANI, MIHIR	\$101.00
GURCHARAN, KANWAL	\$101.00
DHILLON, RENNU	\$100.00
MALLEY, GREGORY	\$100.00
WALHA, GURMUKH	\$100.00
GULERIA, SHER SINGH	\$100.00
MOYER, THOMAS	\$100.00

WILDER, DEBORAH	\$100.00
KAUR, RAJVINDER	\$100.00
PATEL, USH	\$100.00
STEVES APPLIANCE REPAIR	\$100.00
KRVARIC, TONY	\$100.00
FOWLER, PETER	\$100.00
VUKSICH, ALEXANDRA	\$100.00
JUDGE, VERINDER	\$100.00
BEDI, HARMOHAN	\$100.00
KIACHKO, DAVID	\$100.00
POOLE, EDWARD G	\$100.00
BHUTANI, KAWALJIT	\$100.00
WAVERLY HEMATOLOGY ONCOLOGY	\$100.00
SINGH, DARSHAN	\$100.00
ANTHOOR, SWAPNA	\$100.00
CHADHA, HARPREET	\$100.00
NASKAR, ALOKA	\$100.00
SINGH, NAGINDER	\$100.00
BEDHI, HARMOHAN	\$100.00
KHOSA, GURJANT	\$100.00

Exhibit “B”

# Welcome To The Munger Games!



*Charles Munger, Jr.*

How much damage can one man do to a political party?

In the case of Charles Munger, Jr. and the California Republican Party, the answer is: a lot.

Welcome to The Munger Games, the purpose of which is to inform, education and entertain on the subject of the one-man maelstrom of money intent on re-making California Republicanism in his bow-tied image.

Munger burst into California Republican politics a few short years ago, and the has left a trail of political debris in his wake:

- Prop. 14, which created the top-two primary system that pits Republicans against Republicans in the general election.
- Prop. 20, which gave us the Citizens Redistricting Commission that was expertly gamed by the Democrats to the detriment of Republicans.
- A divisive effort to reduce the CRP platform to mush.
- Enormous expenditures to defeat the already dwindling number of GOP Assembly incumbents.

That's just the top-line scan of the damage Munger has and will inflict. There are weirder tales still to tell.

Who is Charles Munger, Jr.? What makes him tick? What has he done? What will he do?

Share this:

This entry was posted in California Republican Party, Charles Munger, Intra-party mayhem, Redistricting, Top-Two Primary on January 30, 2013 [<http://www.mungergames.net/?p=7>] .

3



Exhibit “C”

HOME

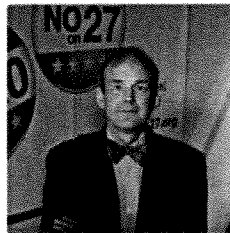


# THE MUNGER GAMES

"WASTING HIS PATRIMONY"

## Welcome To The Munger Games!

[Leave a reply](#)



Charles Munger, Jr.

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### RECENT POSTS

[CRA President John Briscoe Misses The Point While Emulating Left-Wing Tactics From Our Readers: "Munger Envisions A World Where People Do Not Run As Republicans"](#)  
[From Our Readers: "This Lawsuit Appears Aimed At Suppressing The Political Speech of the Authors"](#)  
[Harmeet Dhillon: Use Her Photo, Get Sued, Bring Sword To Movies, She'll Be Your Lawyer](#)  
[Harmeet's Free-Speech Hypocrisy](#)

### RECENT COMMENTS

Bob Richmond on [CRA President John Briscoe Misses The Point While Emulating Left-Wing Tactics From Our Readers: "Munger Envisions A World Where People Do Not Run As Republicans"](#) | [The Munger Games on Munger's 2013 Contributions to County GOPs Pass the \\$1 Million Mark](#)  
[From Our Readers: "This Lawsuit Appears Aimed At Suppressing The Political Speech of the Authors"](#) | [The Munger Games on Munger Proxy/Attorney & CRP Vice Chair Harmeet Dhillon Sues the Munger Games](#)

Exhibit “D”

## Meet Harmeet

Harmeet Dhillon

*Harmeet Dhillon*

We have asked the question, "Who is Charles Munger, Jr.?"

Although we haven't finished answering it, we also need to ask ourselves, "What does he want?"

To begin with, he wants to control and re-shape the California Republican Party, and the way he is going about it right now is by supporting Harmeet Dhillon for CRP Vice Chairman. Dhillon is the chair of the San Francisco Republican Party.

It will take more than one blog post to paint a complete picture of Harmeet Dhillon, but we can start with her deep, active involvement with the American Civil Liberties Union.

Yes, that ACLU.

In late 2002, Dhillon was running for the Board of Directors of the ACLU of Northern California. Here is her candidate statement, as it appeared in the November-December 2002 edition of "ACLU News":

*"I am deeply honored to have been nominated as a candidate for the Board of Directors. I am an attorney in Palo Alto, where I practice complex commercial litigation. Both my career as a lawyer and my former career as a journalist have impressed upon me the crucial importance of the First Amendment to our democracy. Throughout my legal career I have performed pro bono legal services for victims of human rights and civil rights violations, domestic abuse and employment Discrimination, and have been recognized for my work on behalf of the Lawyers' Committee for Human Rights and the Network for Women's Services. I am committed to the values championed by the ACLU-NC."*

The same newsletter gives some alarming examples of the ACLU values to which Dhillon vows she is committed. The italicized sections are taken directly from the ACU newsletter.

### **Removing "Under God" from the Pledge of Allegiance**

*In striking down the McCarthy-era law that rewrote the Pledge of Allegiance to insert the words "under God," Newdow v. United States Congress, the Ninth Circuit breathed life into the Pledge's stirring ideal of a country "with liberty and justice for all." The decision secured liberty for children of*

*minority faiths who have quietly been denied religious freedom for nearly 50 years, when pressured in public school to pledge allegiance to a God they do not worship.*

### **Opposition to Anti-Pornography Filters on Public Library Computers**

*"As the Children's Internet Protection Act (CIPA) went into effect this September, activists and students around the nation criticized the new law as "closing the door to knowledge." CIPA requires public schools and libraries to block Internet access to materials deemed "harmful to minors" in order to receive certain federal funds.*

*"A fundamental goal of the Internet is to open the door to knowledge, but internet blocking software slams this door," ACLU-NC staff attorney Ann Brick told reporters.*

### **Support of Drivers Licenses For Illegal Immigrants...Without Criminal Background Checks)**

*In an election year, Gov. Davis needs the support of immigrant communities. Nevertheless, the Governor vetoed AB 60 (Cedillo-D), a crucial bill that would have allowed immigrants in the process of applying for legal status to receive a driver's license. A companion bill SB 804 (Polanco-D), which included provisions requiring that applicants give a digital thumbprint, undergo a criminal background check, and submit proof of employment in California, was also returned unsigned.*

*The ACLU and immigrants' rights groups strongly opposed the background check provisions demanded by Gov. Davis and included in SB804, because they are unrelated to a person's ability to drive, do not address public safety concerns, and discriminate against immigrants.*

### **Educating School Children on LGBT Issues**

*Focusing on schools, [Matt] Coles [director of the national ACLU Lesbian & Gay Rights and AIDS Project] explained, is important for two reasons: LGBT students are extremely vulnerable, and we can achieve great progress by educating youth about LGBT rights. He explained that school officials know they cannot discriminate openly against lesbian and gay student groups, so they are now setting up bureaucratic obstacles to the recognition of such clubs. The Projects are actively helping courageous students across the country deal with these obstacles.*

### **Redefining Family**

*In the past, Coles said, opponents of gay and lesbian equality have used the issue of "family" to attack gay people. More recently, however, public opinion is changing. That change is due in part to the ACLU's public education campaign based on a Florida case in which the Projects are representing two gay foster parents fighting to keep their family of seven intact in spite of efforts by the state to get a heterosexual family to adopt the children. In part because the case involves HIV-positive children and attracted the celebrity support of Rosie O'Donnell, it has dramatically changed Americans' perceptions of lesbian and gay men and their families.*

*The Project's work, like the ACLU's efforts in general, is grounded in the belief that government must follow the rule of law, said Coles. He expressed dismay about how the federal government is flouting the rule of law, whether in its pursuit of the "war on terrorism," military action in Iraq, or the denial of lesbian and gay equality.*

"Under God" in the Pledge of Allegiance oppresses children? Giving drivers licenses to people here illegal without even a background check to exclude criminal aliens? Opposing anti-porn filters in libraries? Injecting LGBT advocacy groups' talking points into public schools?

And believe it or not, there's more. We'll bring that to you tomorrow.

These are the values to which Harmeet Dhillon pledged her commitment in 2002. And this is the individual Charles Munger, Jr. wants to elect as a leader and spokesperson for the California Republican Party.

The question California Republican activists, leaders and elected officials need to ask themselves is whether these are the values of Republican Party? How much will we compromise ourselves by following the prescriptions of Dr. Munger in the vain hope of "broadening our appeal"?

Share this:

This entry was posted in California Republican Party, Charles Munger, Harmeet Dhillon, Principles on February 12, 2013 [<http://www.mungergames.net/?p=41>] .

2 thoughts on "Meet Harmeet"

Pingback: Meet Harmeet, Part 2 | The Munger Games

Pingback: Munger Proxy/Attorney Harmeet Dhillon Sues the Munger Games | The Munger Games

2

Exhibit “E”



4/11/13 BPR

AO 88B (Rev. 06/02) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

## UNITED STATES DISTRICT COURT

for the

Northern District of California

Harmeet K. Dhillon

Plaintiff

v.

DOE 1, an unknown individual, et al.

Defendant

Civil Action No. 13-cv-01465-JCS

(If the action is pending in another district, state where: )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: New Dream Network, LLC, dba DreamHost, c/o CT Corporation System (CO168406), 818 West Seventh Street,  
Los Angeles, CA 90017

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Documents sufficient to identify the account information for the domain name "Mungergames.net," hosted by DreamHost, including the names, addresses, telephone numbers, and e-mail addresses of the owner(s) of the domain name "Mungergames.net." You are to comply with this subpoena pursuant to the terms set forth in the Amended Order attached hereto as Attachment A.

Place: Dhillon & Smith LLP  
177 Post Street, Suite 700  
San Francisco, CA 94108

Date and Time:

06/21/2013 10:00 am

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 04/11/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiff Harmeet K. Dhillon, who issues or requests this subpoena, are:

Harold P. Smith, Krista L. Shoquist, DHILLON & SMITH LLP, 177 Post Street, Suite 700, San Francisco, CA 94108,  
email: kshoquist@dhillonsmith.com; Tel: 415-433-1700.



# Attachment A

1 HAROLD P. SMITH, ESQ. (SBN: 126985)  
 psmith@dhillonsmith.com  
 2 KRISTA L. SHOQUIST, ESQ. (SBN: 264600)  
 kshoquist@dhillonsmith.com  
 3 DHILLON & SMITH LLP  
 4 177 Post Street, Suite 700  
 5 San Francisco, California 94108  
 6 Telephone: (415) 433-1700  
 7 Facsimile: (415) 520-6593

8 Attorneys for Plaintiff  
 9 Harmeet K. Dhillon

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

12 San Francisco Division

13 HARMEET K. DHILLON,

Case No. 13-01465-JCS

14 Plaintiff,

AMENDED<sup>1</sup> [~~PROPOSED~~] ORDER  
 GRANTING PLAINTIFF'S EX  
 PARTE APPLICATION FOR LEAVE  
 TO TAKE LIMITED DISCOVERY  
 PRIOR TO A RULE 26(f)  
 CONFERENCE

15 v.

16 DOE 1, an unknown individual, et al.,

17 Defendants.

18  
 19  
 20  
 21  
 22  
 23 <sup>1</sup> Plaintiff's *Ex Parte* Application For Leave to Take Limited Discovery Prior to a Rule  
 24 26(f) Conference, filed April 2, 2013 (Doc. 2), sought leave to serve a subpoena on "New  
 25 Dream Network, LLC, on behalf of DreamHost." However, the original [Proposed]  
 26 Order submitted with that *ex parte* application (Doc. 2-1), and the subsequent Order  
 27 filed on April 3, 2013 (Doc. 6), contained a typographical error with respect to the name  
 28 of the subpoenaed entity, listing it as "DreamHost Network, LLC, on behalf of  
 DreamHost." Plaintiff thus respectfully requests that the Court remedy this error by  
 granting this Amended [Proposed] Order, which is identical in substance to the Court's  
 Order of April 3rd, other than with respect to the name of the entity to be subpoenaed.

Amended [Proposed] Order

1

DHILLON & SMITH LLP

1 The Court, having reviewed Plaintiff's *Ex Parte* Application for Leave to Take  
2 Limited Discovery Prior to a Rule 26 Conference and the supporting documents  
3 submitted therewith, and good cause appearing therefore, hereby grants Plaintiff's *Ex*  
4 *Parte* Application and orders as follows:

5 1. IT IS HEREBY ORDERED that Plaintiff is allowed to serve immediate  
6 discovery on New Dream Network, LLC, on behalf of DreamHost, in order to obtain  
7 the identity of the Doe Defendants listed in Plaintiff's Complaint by serving a Rule 45  
8 subpoena that seeks information sufficient to identify each such Defendant, including  
9 the account information for the domain name "Mungergames.net," hosted by  
10 DreamHost, and the name, addresses, telephone numbers, and email addresses of each  
11 such Defendant.  
12

13 2. IT IS FURTHER ORDERED that Plaintiff's counsel shall issue subpoena(s)  
14 in substantially the same form as the example attached as Exhibit 1 to Plaintiff's *Ex Parte*  
15 Application for Leave to Take Limited Discovery Prior to a Rule 26 Conference, with  
16 each subpoena including a copy of this Order.

17 3. IT IS FURTHER ORDERED that New Dream Network, LLC, will have 30  
18 days from the date of service upon it to serve each entity or person whose information  
19 is sought with a copy of the subpoena and a copy of this Order. New Dream Network,  
20 LLC may serve the entities and persons using any reasonable means, including written  
21 notice sent to the entity's or person's last known address, transmitted either by first-  
22 class mail or overnight service.

23 4. IT IS FURTHER ORDERED that each entity and person and New Dream  
24 Network, LLC, will have 30 days from the date of service upon him, her, or it to file any  
25 motions in this court contesting the subpoena (including a motion to quash or modify  
26 the subpoena). If that 30-day period lapses without the entity contesting the subpoena,  
27  
28

1 New Dream Network, LLC, shall have 10 days to produce to Plaintiff the information  
2 responsive to the subpoena with respect to that entity.

3 5. IT IS FURTHER ORDERED that, because no appearance by a person at a  
4 deposition is required by the subpoena, instead only production of documents, records  
5 and the like is required, the witness and mileage fees required by Rule 45(b)(1) of the  
6 Federal Rules of Civil Procedure do not apply and no such fees need be tendered.

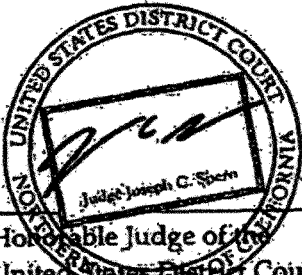
7 6. IT IS FURTHER ORDERED that New Dream Network, LLC, shall not  
8 assess any charge to the Plaintiff in advance of providing the information requested in  
9 the subpoena, and that if New Dream Network, LLC, elects to charge for the costs of  
10 production, it shall provide a billing summary and cost reports that serve as a basis for  
11 such billing summary and any costs claimed by such recipient.

12 7. IT IS FURTHER ORDERED that New Dream Network, LLC, shall  
13 preserve all subpoenaed information pending its delivering such information to  
14 Plaintiff or the final resolution of a timely filed and granted motion to quash the  
15 subpoena with respect to such information.

16 8. IT IS FURTHER ORDERED that any information disclosed to Plaintiff in  
17 response to a subpoena may be used by Plaintiff solely for the purpose of protecting its  
18 rights under the Copyright Act, 17 U.S.C. § 101 et seq, and may not be disclosed to  
19 anyone other than the parties in this action and their counsel of record pending further  
20 order of this Court.

21  
22 IT IS SO ORDERED.

23  
24 Date: 4/9, 2013

25  
26  
27  
28  
  
Honorable Judge of the  
United States District Court,  
Northern District of California

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 13-cv-01465-JCS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for (name of individual and title, if any) \_\_\_\_\_  
was received by me on (date) \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on (date) \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
Server's signature  
\_\_\_\_\_  
Printed name and title  
\_\_\_\_\_  
Server's address

Additional information regarding attempted service, etc:



## Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond in the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information until a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit “F”

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

## UNITED STATES DISTRICT COURT

for the

Central District of California

Harmeet K. Dhillon

Plaintiff

v.

DOE 1, an unknown individual, et al.

Defendant

Civil Action No. 13-cv-01465-JCS

(If the action is pending in another district, state where:

Northern District of California )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: New Dream Network, LLC, dba DreamHost, c/o CT Corporation System (CO168406), 818 West Seventh Street,  
Los Angeles, CA 90017

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Documents sufficient to identify the account information for the domain name "Mungergames.net," hosted by DreamHost, including the names, addresses, telephone numbers, and e-mail addresses of the owner(s) of the domain name "Mungergames.net." You are to comply with this subpoena pursuant to the terms set forth in the Amended Order attached hereto as Attachment A.

Place: American Messenger Services, Inc. 205 South Broadway #925 Los Angeles, CA 90012	Date and Time:  10/03/2013 10:00 am
--	---

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 07/22/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiff Harmeet K. Dhillon, who issues or requests this subpoena, are:

Harold P. Smith; Krista L. Shoquist, Dhillon & Smith LLP, 177 Post Street, Suite 700, San Francisco, CA 94108; email kshoquist@dhillonsmith.com; Tel: 415-433-1700.



# Attachment A

Case3:13-cv-01465-JCS Document8 Filed04/09/13 Page1 of 3

HAROLD P. SMITH, ESQ. (SBN: 126985)  
psmith@dhillonsmith.com  
KRISTA L. SHOQUIST, ESQ. (SBN: 264600)  
kshoquist@dhillonsmith.com  
DHILLON & SMITH LLP  
177 Post Street, Suite 700  
San Francisco, California 94108  
Telephone: (415) 433-1700  
Facsimile: (415) 520-6593

Attorneys for Plaintiff  
Harmeet K. Dhillon

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

San Francisco Division

HARMEET K. DHILLON,

Plaintiff,

v.

DOE 1, an unknown individual, et al.,

Defendants.

Case No. 13-01465-JCS

AMENDED<sup>1</sup> ~~PROPOSED~~ ORDER  
GRANTING PLAINTIFF'S EX  
PARTE APPLICATION FOR LEAVE  
TO TAKE LIMITED DISCOVERY  
PRIOR TO A RULE 26(f)  
CONFERENCE

<sup>1</sup> Plaintiff's *Ex Parte* Application For Leave to Take Limited Discovery Prior to a Rule 26(f) Conference, filed April 2, 2013 (Doc. 2), sought leave to serve a subpoena on "New Dream Network, LLC, on behalf of DreamHost." However, the original [Proposed] Order submitted with that *ex parte* application (Doc. 2-1), and the subsequent Order filed on April 3, 2013 (Doc. 6), contained a typographical error with respect to the name of the subpoenaed entity, listing it as "DreamHost Network, LLC, on behalf of DreamHost." Plaintiff thus respectfully requests that the Court remedy this error by granting this Amended [Proposed] Order, which is identical in substance to the Court's Order of April 3rd, other than with respect to the name of the entity to be subpoenaed.

Amended [Proposed] Order

1

DHILLON & SMITH LLP

Case3:13-cv-01465-JCS Document8 Filed04/09/13 Page2 of 3

1 The Court, having reviewed Plaintiff's *Ex Parte* Application for Leave to Take  
2 Limited Discovery Prior to a Rule 26 Conference and the supporting documents  
3 submitted therewith, and good cause appearing therefore, hereby grants Plaintiff's *Ex*  
4 *Parte* Application and orders as follows:

5 1. IT IS HEREBY ORDERED that Plaintiff is allowed to serve immediate  
6 discovery on New Dream Network, LLC, on behalf of DreamHost, in order to obtain  
7 the identity of the Doe Defendants listed in Plaintiff's Complaint by serving a Rule 45  
8 subpoena that seeks information sufficient to identify each such Defendant, including  
9 the account information for the domain name "Mungergames.net," hosted by  
10 DreamHost, and the name, addresses, telephone numbers, and email addresses of each  
11 such Defendant.

12 2. IT IS FUTHER ORDERED that Plaintiff's counsel shall issue subpoena(s)  
13 in substantially the same form as the example attached as Exhibit 1 to Plaintiff's *Ex Parte*  
14 Application for Leave to Take Limited Discovery Prior to a Rule 26 Conference, with  
15 each subpoena including a copy of this Order.

16 3. IT IS FURTHER ORDERED that New Dream Network, LLC, will have 30  
17 days from the date of service upon it to serve each entity or person whose information  
18 is sought with a copy of the subpoena and a copy of this Order. New Dream Network,  
19 LLC may serve the entities and persons using any reasonable means, including written  
20 notice sent to the entity's or person's last known address, transmitted either by first-  
21 class mail or overnight service.

22 4. IT IS FURTHER ORDERED that each entity and person and New Dream  
23 Network, LLC, will have 30 days from the date of service upon him, her, or it to file any  
24 motions in this court contesting the subpoena (including a motion to quash or modify  
25 the subpoena). If that 30-day period lapses without the entity contesting the subpoena,  
26  
27  
28

Amended [Proposed] Order

2

DHILLON &amp; SMITH LLP

Case3:13-cv-01465-JCS Document8 Filed04/09/13 Page3 of 3

1 New Dream Network, LLC, shall have 10 days to produce to Plaintiff the information  
2 responsive to the subpoena with respect to that entity.

3 5. **IT IS FURTHER ORDERED** that, because no appearance by a person at a  
4 deposition is required by the subpoena, instead only production of documents, records  
5 and the like is required, the witness and mileage fees required by Rule 45(b)(1) of the  
6 Federal Rules of Civil Procedure do not apply and no such fees need be tendered.

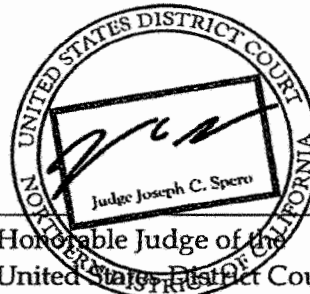
7 6. **IT IS FURTHER ORDERED** that New Dream Network, LLC, shall not  
8 assess any charge to the Plaintiff in advance of providing the information requested in  
9 the subpoena, and that if New Dream Network, LLC, elects to charge for the costs of  
10 production, it shall provide a billing summary and cost reports that serve as a basis for  
11 such billing summary and any costs claimed by such recipient.

12 7. **IT IS FURTHER ORDERED** that New Dream Network, LLC, shall  
13 preserve all subpoenaed information pending its delivering such information to  
14 Plaintiff or the final resolution of a timely filed and granted motion to quash the  
15 subpoena with respect to such information.

16 8. **IT IS FURTHER ORDERED** that any information disclosed to Plaintiff in  
17 response to a subpoena may be used by Plaintiff solely for the purpose of protecting its  
18 rights under the Copyright Act, 17 U.S.C. § 101 et seq, and may not be disclosed to  
19 anyone other than the parties in this action and their counsel of record pending further  
20 order of this Court.  
21

22 **IT IS SO ORDERED.**

23 Date: 4/9, 2013



Honorable Judge of the  
United States District Court,  
Northern District of California

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 13-cv-01465-JCS

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_ *Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

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**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

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**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit “G”

1 Rick A. Cigel, Esq. (SBN 105424)  
2 THE CIGEL LAW GROUP, P.C.  
3 10866 Wilshire Blvd., Suite 400  
4 Los Angeles, California 90024  
5 Tel: (424) 901-8513  
6 Fax: (424) 901-8514

7 Attorneys for Defendant  
8 DOE 1

9 UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 HARMEET K. DHILLON, an  
12 individual,

13 Plaintiff,

14 vs.

15 DOE 1, an unknown individual, and  
16 DOES 2 through 10,

17 Defendants.

Case No. CV 13-7003-JFW (MANx)

REPLY BRIEF IN SUPPORT OF  
MOTION BY DEFENDANT DOE 1 TO  
QUASH SUBPOENA ISSUED IN  
CENTRAL DISTRICT OF CALIFORNIA  
TO NEW DREAM NETWORK, LLC

[Concurrently filed with Declaration of  
Rick A. Cigel]

(Action pending in the Northern District of  
California: Case No.13-cv-01465-JCS)



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1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2           **I. INTRODUCTION**

3           There is no dispute that this motion to quash implicates serious Constitutional  
4 rights that cannot be invaded lightly. The U.S. Supreme Court has held  
5 unequivocally that anonymous internet speech is protected by the First Amendment,  
6 and that political speech is at the core of First Amendment protections.

7           Ninth Circuit precedent requires Plaintiff to present a valid copyright claim  
8 sufficient to withstand a summary judgment motion before she can invade Doe 1's  
9 Constitutional rights. Plaintiff asserts the standard is lower, and only requires a prima  
10 facie evidentiary showing. No matter what standard this Court employs, however,  
11 Plaintiff cannot meet it.

12           That is because Doe 1's alleged "use" of Plaintiff's publicity headshot for  
13 purposes of political commentary is Fair Use. Under all discovered cases, using a  
14 photo for purposes of criticism and commentary is "transformative" and thus Fair  
15 Use. Plaintiff argues that this Court cannot consider Fair Use at this juncture, but  
16 Plaintiff is wrong. The cases Plaintiff cites for this proposition actually stand for the  
17 opposite, and clearly state that a court absolutely should evaluate Fair Use when  
18 considering a motion to quash a subpoena seeking an anonymous speaker's identity.

19           In addition, even if this Court were to find that Plaintiff had made a sufficient  
20 showing of copyright infringement – which Doe 1 adamantly asserts she did not and  
21 cannot do – this Court would still have to balance the competing harms. Case law  
22 provides that disclosure of an anonymous political speaker's identity can wreak havoc  
23 on the speaker's life, inviting retaliation and ostracism, and also have a substantial  
24 chilling effect on future political debate. This is precisely what the First Amendment  
25 was designed to protect against. It is especially important to protect anonymity in this  
26 case because mungergames.net risks harsh retaliation by Charles Munger, Jr., the  
27 multi-millionaire subject of criticism on the website.